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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,835	07/25/2003	Brian C. Betz	BCB-101A	3733
7590	02/03/2005		EXAMINER	
Kenneth P. Glynn, Esq. Glynn & Associates, P.C. 24 Mine Street Flemington, NJ 08822			LOPEZ, MICHELLE	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 02/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application N .	Applicant(s)
	10/627,835	BETZ, BRIAN C.
	Examin r	Art Unit
	Michelle Lopez	3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 November 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 21-40 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. This action is in response to the amendment filed on November 23, 2004.
2. Claims 1-20 have been canceled.
3. New claims 21-40 have been added.

***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the features of "internal tapers that are tapered outwardly in a direction toward said bottom to create an inverted V-notch and external tapers that are tapered inwardly in a direction toward said bottom to create an uprigthed V-shape" and "a variable diameter" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the

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drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 21-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 21 and 31 are indefinite, since it is not clear how many tapers do the inner lower portion includes. Claims 21 and 31 recites that the inner lower portion includes at least two tapers being positioned to create a V-shape, thereafter it is claiming internal tapers positioned to create an inverted V-notch, and external tapers positioned to create an uprigted V-shape.

In claims 29 and 39, the limitation “variable diameter” is indefinite, since it is not clear how the diameter could be variable?

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claims 21-25, 30-35, and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Mukoyama (6,286,742).

As far as claim 21 was understood, Mukoyama discloses an adapter for the firing tip of a nail gun having a member 20 having a top, a bottom, and sidewalls, said member having an upper hollow portion at the having a cylindrical shape, a predetermined depth and a predetermined diameter at the vicinity of  $d_2'$  as shown in Fig. 6c, and having a lower hollow portion having at least one cross section that is less than said predetermined diameter at the vicinity of  $D_1'$ , said upper hollow portion and said lower hollow portion being connected and establishing a complete passage through said member from said top to said bottom, said member having an inner lower portion that includes at least two tapers, said at least two tapers being positioned to create tapered walls establishing a V-shape selected from the group consisting of external tapers at 114 that are tapered inwardly in a direction toward said bottom to create an uprighted V-shape.

With respect to claim 22, Mukoyama discloses wherein said member sidewall is a circular sidewall of a predetermined diameter as shown in Fig. 4.

With respect to claim 23, Mukoyama discloses wherein said outer lower portion is tapered with two tapers, one opposite the other as shown in Fig. 6c.

With respect to claim 24, Mukoyama discloses wherein the two tapers are flat planer tapers.

With respect to claim 25, Mukoyama discloses wherein said flat planer tapers form an angle of about 45° with said bottom.

With respect to claim 30, Mukoyama discloses wherein said member is made of a material selected from the group consisting of metal as shown in col. 10; 5-6, plastic and rubber as shown in col. 10; 59-61.

As far as claim 31 was understood, Mukoyama discloses a nail gun having a power source for feeding and firing nails, a nail feeder, and a firing tip 11 for exit of fired nails, said firing tip having a cylindrical outer shape with a fixed tip diameter as shown in Fig. 4; an adapter 20, being a member having a top, a bottom, and sidewalls, said member having an upper hollow portion having a cylindrical shape, a predetermined depth and a predetermined diameter at the vicinity of  $d_2'$ , and having a lower hollow portion having at least one cross section that is less than said predetermined diameter at the vicinity of  $D_1'$ , said upper hollow portion and said lower hollow portion being connected and establishing a complete passage through said member from said top to said bottom, said member having an outer lower portion that includes at least two tapers, said at least two tapers being positioned to create tapered walls establishing a V-shape selected from the group consisting of external tapers that are tapered inwardly in a direction toward said bottom to create an uprighted V-shape; wherein said predetermined diameter of said upper hollow portion of said member is appropriately equal to said fixed tip diameter, and wherein said upper hollow portion of said member is tightly fitted to said firing tip 114.

With respect to claim 32, Mukoyama discloses wherein said member sidewall is a circular sidewall of a predetermined diameter as shown in Fig. 4.

With respect to claim 33, Mukoyama discloses wherein said outer lower portion is tapered with two tapers, one opposite the other as shown in Fig. 6c.

With respect to claim 34, Mukoyama discloses wherein the two tapers are flat planer tapers.

With respect to claim 35, Mukoyama discloses wherein said flat planer tapers form an angle of about 45° with said bottom.

With respect to claim 40, Mukoyama discloses wherein said member is made of a material selected from the group consisting of metal as shown in col. 10; 5-6, plastic and rubber as shown in col. 10; 59-61.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 26-29, 36-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mukoyama (6,286,742) in view of Roy (2,169,433).

With respect to claims 26 and 36, Mukoyama discloses wherein said two tapers are external tapers that are tapered inwardly in a direction toward said bottom to create an uprighted V-shape, but does not discloses wherein at least one of said two tapers is a curved taper.

However, Roy teaches a member 11 with a curved taper for the purpose of adapting the curved taper to receive a tongue of a floor board, wherein holding the device correctly positioned with respect to the tongue of the board during a nail driving operation (see col. 2, lines 15-22).

In view of Roy, it would have been obvious to one having ordinary skills in the art at the time the invention was made to provided Mukoyama's invention with one of the tapers as a curved taper in order to adapt the curved taper to receive a tongue of a floor board, thereby holding the device correctly positioned with respect to the tongue of the board during a nail driving operation.

With respect to claims 27 and 37, Mukoyama does not disclose wherein the curved taper is concave.

However, Roy teaches wherein the curved taper is concave.

With respect to claims 28 and 38, Mukoyama does not disclose wherein the curved taper has a fixed diameter.

However, Roy teaches wherein the curved taper has a fixed diameter.

#### *Response to Arguments*

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

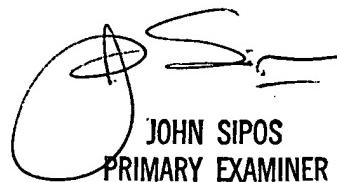
***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Anstett'544 and Dettloff'488 are cited to show related inventions.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ML



JOHN SIPOS  
PRIMARY EXAMINER